IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

Writ Petition No. 8263 of 2004

Cadet Sumit Saxena.. . petitioner

vs

The Commandant National Defence

Academy Pune andors ..respondents

Mr Shyam Mehta i/b Mr Satendra Kumar for Petitioner

Ms S V Bharucha for respondents

CORAM;A.P.SHAH & S.C.DHARMADHIKARI JJ.

Dated 3.l2.2004

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By this petition the petitioner is challenging the action of the respondents recommending withdrawal of the petitioner as Cadet of the National Defence Academy. The challenge is on the ground that the charges levelled against the petitioner are false and trumped up and the petitioner is totally innocent and has been falsely implicated . It is contended that he has not committed any of the alleged offence but certain Senior Cadets maliciously framed the petitioner for not

succumbing to their ragging. It is also contended that the impugned decision was in violation of principle of natural justice. No chargesheet or show cause notice of any type was furnished to the petitioner. The petitioner was not permitted to examine any witnesses to establish his innocence. There was no proper hearing in the matter and only statement of the petitioner was recorded by the Court of Inquiry. Therefore the action of the respondents is arbitrary, unfair and violative of Art l4 of the Constitution.

We have heard Mr.Shyam Mehta, learned counsel appearing for the petitioner and Ms Bharucha, learned counsel appearing for the respondents. We have perused the original papers of the inquiry. It appears from the inquiry papers that the petitioner was found guilty of serious acts of misconduct and due to grave nature of the offence he has been recommended for withdrawal on disciplinary ground. The charges against the petitioner were proved by recording statement of the witnesses.In fact the petitioner has admitted his guilt before the Competent Authority. In the circumstances no interference is warranted under Article 226 of the Constitution. Petition is accordingly dismissed.